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CAMPAIGN FINANCE GUIDE FOR CANDIDATES FOR THE MASSACHUSETTS GENERAL COURT

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OFFICE OF CAMPAIGN and POLITICAL FINANCE

Commonwealth of Massachusetts

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This brochure is designed to introduce candidates for the General Court (i.e. the state Senate and House of Representatives) and the treasurers of their political committees to the provisions of the campaign finance law. The Office of Campaign and Political Finance (OCPF) is responsible for administering and enforcing Massachusetts General Laws Chapter 55, the campaign finance law. The office is available to assist individuals in complying with the statute and encourages candidates, treasurers, committee members and interested parties to familiarize themselves with these laws and regulations.

This publication is meant only to be an introductory guide to the campaign finance law, not a substitute for it. It is the responsibility of all those participating in political campaign financing in Massachusetts to become knowledgeable with the provisions of the law and regulations. Violations of the law carry serious penalties of fines, imprisonment or both. For additional information please contact the

Office of Campaign and Political Finance
One Ashburton Place
Boston, MA 02108
(617) 727-8352
(800) 462-OCPF

About the Office of Campaign and Political Finance

Chapter 1173 of the Acts of 1973 strengthened the state campaign finance law and established the Office of Campaign and Political Finance. While the 1970s saw a push for reforms in campaign finance disclosure laws all across the country, portions of the campaign finance law were on the books in Massachusetts as early as 1884. Some of those original laws provide for restrictions on and protections for public employees and will be discussed later in this brochure. Significant changes to the law were made through Chapters 43 and 292 of the Acts of 1994. Many of these changes affect General Court candidates and are addressed in detail in this brochure.

The Campaign Finance Law

Chapter 55 of the Massachusetts General Laws is a comprehensive statute concerning the financing of political campaigns in the Commonwealth. The statute requires, for example, that candidates and political committees disclose all contributions received and expenditures made. The campaign finance law also provides for limitations, and in some cases absolute prohibitions, on certain sources of campaign contributions. Additionally, the way in which campaign funds may be spent is regulated by the statute as well as by regulations and guidelines established by OCPF. Chapter 55 also regulates certain conduct in connection with the raising and spending of campaign funds, such as the activities of public employees and the prohibited use of governmental resources for political purposes. OCPF has promulgated regulations (970 CMR) on contributions and expenditures which should be consulted for more specific guidelines on these requirements.

The General Court Candidate

If you are thinking about running for the General Court, you should contact OCPF before undertaking any activity. The statute has a very broad definition of "candidate," and you may be considered a candidate under the law before any formal announcement of candidacy is made.

This brochure is designed to address issues concerning candidates for the General Court, or legislative candidates. Activities of the treasurer of a political committee organized on behalf of a legislative candidate are also covered in this brochure.

By law, no candidate or elected official on the state, county or municipal level may establish, finance, maintain, control or serve as a principal officer of a Political Action Committee (PAC). The only exceptions are the PACs which each political party in the state Senate and House of Representatives may organize and maintain. Candidates and elected officials may, however, serve as officers of a people's committee.

Forms

To familiarize you with the appropriate forms required for legislative candidates, a summary of these forms and an explanation of their purpose is provided here. OCPF staff will, upon request, review with you these forms and the procedures for filing them.

FORM CPF 101: STATEMENT OF ORGANIZATION OF A CANDIDATE COMMITTEE

Although the law does not require a candidate to have a political committee organized on his or her behalf, many candidates have one. Public employees who run for elective office and wish to raise money for their campaigns must organize a committee and have the committee handle all fundraising because public employees are prohibited by law from political fundraising, even for their own campaigns.

Form CPF 101 should be filed with OCPF as soon as the committee is organized. A political committee may not accept any contributions nor incur any expenses until the treasurer qualifies for the office of treasurer by completing, signing and filing Form CPF 101.

This form contains the names and address of the committee chairman and treasurer and the name of the candidate for whom the committee is organized. Any change in information previously submitted should be reported to OCPF within 10 days of such change. Political committees are prohibited from receiving or expending funds without a qualified treasurer. Any change in treasurer should therefore be reported by completing Form CPF T 101 and filing it immediately with OCPF.

A candidate may have only one committee organized on his or her behalf, even if the candidate holds more than one elective office. If a candidate plans to seek state or county office and later wishes to seek office at the municipal level, or vice versa, such candidate must transfer his committee from the state to the municipality, or vice versa. OCPF can assist you in accomplishing these transfers.

By law, a committee must name a chairman and a treasurer. The chairman and the treasurer may be the same person, unless that person is a public employee. A public employee may not serve as the treasurer of any political committee since such a position would involve the solicitation and/or receipt of monies for a political purpose, which is prohibited by law. (See section on public employee restrictions.) A candidate may not be the treasurer of his or her own committee.

FORM CPF 102 ND: CAMPAIGN FINANCE REPORT

Every legislative candidate and his or her political committee, if any, is required to file Form CPF 102 ND with OCPF on or before each reporting date as discussed in the next section. This report must be signed by the candidate and treasurer under the penalties of perjury. Candidates and treasurers are responsible for the legality, validity, completeness and accuracy of each of their reports. The following information should be filed with or on Form CPF 102 ND:

Schedule A - Receipts: An alphabetical listing of all contributions in excess of $50 received in a reporting period, including the date the contribution was received and the residential address of the contributor. This information must also be reported for receipts of $50 or less if the total contributions from the individual have exceeded $50 in the calendar year. Otherwise, receipts of $50 and under are totaled on one line and included in total receipts. However, complete information, including date, name, residential address and amount must be kept by the candidate or committee regardless of the amount of the contribution. If the contribution is $200 or more, or if the individual's total contributions are $200 or more in the calendar year, the occupation and employer of the contributor must also be disclosed. Contributions from PACs must be reported alphabetically by PAC name and include the PAC identification number.

Schedule B - Expenditures: An alphabetical listing of all disbursements in excess of $50 with the amount and date of payment, the name and address of the payee and the purpose of the expenditure. Those expenditures of $50 or less are totaled on one line and included in the total expenditures.

Schedule C - In-Kind Contributions: An alphabetical listing of all in-kind contributions of anything of value other than money with a value in excess of $50 in a calendar year. This listing includes the date, the name and residential address of the contributor from whom it was received and a description of the contribution. The occupation and employer of any contributor of $200 or more in in-kind goods or services, or a combination of money and in-kind contributions, is also required. For those contributions valued at $50 and under, a one-line total is included in the total of all in-kind contributions for the period. In-kind contributions do not include volunteers' personal services or the exercise of ordinary hospitality.

Schedule D - Liabilities: An alphabetical listing of all outstanding, unpaid obligations, including loans, as of the last day of the reporting period, regardless of when the liability was incurred. Included is the amount, the date the liability was incurred, the name and address to whom it is due and its purpose. Liabilities are carried over from each report to the successive report until such time as they are satisfied.

Schedule E - Disclosure of Assets Statement: A listing of all assets acquired or disposed of during that calendar year which have a useful life of more than one year, would be depreciable in a normal business environment, and have a cost/value of $1,000 or more at the time of acquisition. This schedule is filed ONLY once each year with the Form CPF 102 ND, due on or before January 20, or upon dissolution.

All of the above information is summarized in a schedule on the front page of Form CPF 102 ND. Detailed instructions for completing Form CPF 102 ND are available from OCPF. Records of all receipts and expenditures must be maintained by the committee for all of its activities, regardless of the amount, and are subject to audit by OCPF.

Filing Deadlines

Candidates and/or their committees are required by statute to file periodic campaign finance reports and are responsible for the legality, validity, completeness and accuracy of those reports. The following is the schedule for filing reports. **These reports must be filed whether**

or not money has been raised or expended during the reporting period and whether or not the candidate is nominated or elected. Reports are due to OCPF by the close of business (5:00 p.m.) on the day the report is due. **The candidate is personally liable for a $10 per day late fine imposed by OCPF for each day a report is late**.

Pre-Primary Report: Due on or before the 8th day preceding the state primary, complete from the day following the ending date of the last report filed through 10 days before the due date. If this is an initial report, the activity period is from the day following the date of the last election for the office sought through 10 days before the due date.

Pre-Election Report: Due on or before the 8th day preceding the state election, complete from the day following the ending date of the last report filed through 10 days before the due date.

Year-End Report: Due on or before January 20 in the following year complete from the day following the ending date of the last report filed through December 31. This year-end report must be filed every year so long as the committee is in existence or if the candidate maintains a campaign fund, has outstanding liabilities or is an incumbent elected official. Schedule E (Disclosure of Assets) must also be filed at this time in order for the report to be considered complete.

Special Elections: Candidates and treasurers in a special state primary or election follow a similar reporting schedule as described above plus an additional report due on or before the 30th day following the special election. Candidates and committee treasurers should contact OCPF for specific dates in the event of a special election.

Each candidate and treasurer must file reports. However, both may file the same report if the candidate has not raised or spent any monies independent of his or her committee. **A candidate's committee cannot receive or expend monies unless a treasurer has been qualified**. Candidates and treasurers are subject to certain penalties for failure to file reports.

Contribution Limits

All campaign funds received must be placed in a separate fund apart from any and all other funds. The following is a summary of limitations placed on contributions made to a candidate or candidate's committee:

- An individual may contribute up to an aggregate of $500 to a candidate and that candidate's committee in a calendar year. Individuals are limited to $12,500 per year in aggregate contributions to all state, county and municipal candidates and candidate committees. The candidate, however, may contribute without limit to his or her own campaign. An individual under age 18 is limited to a total of $25 in political contributions to all candidates and political committees in a calendar year.

- Registered lobbyists may only contribute up to an aggregate of $200 per year to a candidate and that candidate's committee.

- A political action committee (PAC) or a people's committee may contribute up to an aggregate of $500 per year to a candidate and that candidate's committee.

- Legislative candidates are subject to an aggregate limit on what they may accept from all PACs in a calendar year. For state Senate candidates that limit is $18,750; for state Representative candidates that limit is $7,500. It is the responsibility of the candidate to know when he or she has exceeded his or her aggregate annual PAC limit.

- A ward or town party committee may contribute up to an aggregate of $1,000 per year to a candidate and that candidate's committee. There is no limit on in-kind contributions from a ward or town party committee.

- A state party committee may contribute up to an aggregate of $3,000 per year to a candidate and that candidate's committee.

There is no limit on in-kind contributions from a state party committee.

- A candidate or candidate's committee may not accept any contribution, including an in-kind contribution of goods, services, equipment, personnel, facilities or the like, from a business or professional corporation, or from any association or organization comprised in whole or in part of such corporations.

- Individuals may use their non-incorporated businesses for making individual campaign contributions. The contributions must be attributable to an individual partner and/or proprietor in that business and applied to his or her $500 contribution limit.

The reporting of all contributions received by a candidate or a candidate's committee is required under M.G.L. Chapter 55. Some of the requirements for disclosure are outlined below.

- Each contributor must furnish the candidate or committee with his/her true name and address at the time the contribution is made.

- The candidate or committee must ask once at the time of solicitation and in one written follow-up request for the occupation and employer for any contributor who has given $200 or more in a calendar year. A copy of the written request **must** be kept as part of the candidate's records.

- Contributions listed from a trust, foundation or association must include the names and residential addresses of its principal officers.

- Contributions from the same person which in the aggregate in a calendar year exceed $50 must be made by a personal check or a check drawn on an account for which the contributor is personally liable. Cash, money orders, cashier's checks, bank checks, payroll deductions, etc., are prohibited in any amounts greater than $50 in the aggregate per contributor per calendar year. Contributions by credit card are prohibited in any amount.

- Contributions of anything of value other than cash or checks are "in-kind" contributions, are reportable on Schedule C and are subject to the same contribution limits previously mentioned. Monetary and in-kind contributions are counted in combination toward an individual's contribution limit. Examples of in-kind contributions include, but are not limited to, rental space, furniture, office equipment, printing, postage and advertisements.

- Loans are defined as contributions and are subject to the same contribution limits previously mentioned. A state Senate candidate may not loan his or her committee more than $50,000 per election. A state Representative candidate may not loan his or her committee more than $30,000 per election.

Expenditure Limits

The following represents a summary of limitations placed on expenditures by candidates and candidate committees:

- Expenditures by a legislative candidate or candidate committee may be made for the enhancement of the political future of the candidate so long as such expenditure is not primarily for the candidate's or any person's personal use. Expenditures may be made to reimburse an agent of a committee for expenses paid out of pocket for the benefit of, and with the authorization of, the committee, provided that disclosure is made of the original expenditure. For any reimbursement in excess of $50, the Form CPF R 1 must also be completed and filed with Form CPF 102 ND.

- A candidate may make expenditures from his or her personal funds without limitation for the purposes of his or her own campaign, including making contributions to his or her own committee. All such expenditures and contributions must be fully disclosed on Form CPF 102 ND.

- If a candidate has no committee and makes expenditures only from his or her own personal funds without raising any money, the

candidate must report all funds that he or she expended on Schedule A as having been contributed by the candidate to his or her own campaign **and** on Schedule B as having been expended.

- A business or professional corporation MAY NOT expend money on behalf of any candidate, candidate's committee, PAC, people's committee or committee of a political party. A business or professional corporation also MAY NOT provide goods, services, equipment, personnel, facilities, etc. unless paid fair market value for such items by the candidate or committee.

- Expenditures in amounts exceeding $50 must be made by check.

- The committee of a legislative candidate may not give in the aggregate in a calendar year more than $100 to another candidate or candidate's committee and the aggregate of all such contributions in a calendar year may not exceed $1,500.

- Surplus money may be placed in an interest bearing money market or savings account. No other type of investment is allowed by law.

Dissolution of a Committee

Committees that have no cash balances, assets or outstanding liabilities and wish to dissolve may do so. Candidates and committees that do not dissolve must continue to report on a regular basis.

All residual funds from committee accounts must be donated to any of the following: (1) the Commonwealth of Massachusetts Local Aid Fund; (2) the general fund of a city or town; (3) a scholarship fund; or (4) certain charitable and religious organizations. Donations to scholarship funds and charities are subject to certain restrictions. Contact OCPF for more information.

Treasurers of all political committees organized in Massachusetts are required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election.

Seeking an Advisory Opinion

Anyone wishing to receive guidance on his or her own campaign finance activities should contact the office prior to undertaking a particular activity. This office issues written advisory opinions to individuals based on written requests describing specific facts and circumstances. The office will issue opinions only on prospective activities. If you have any questions concerning advisory opinions, please contact the office. You may also obtain informal, verbal advice by calling this office at the numbers listed in this brochure.

In addition to specific advisory opinions, from time to time the Director of OCPF issues Interpretive Bulletins setting policy guidelines on a variety of subjects. These documents are available from OCPF and provide helpful guidance to committee chairs, treasurers and members of political committees or other organizations.

Filing a Complaint

If you have reason to believe that a violation of the campaign finance law has occurred, you may file a complaint with this office. OCPF reviews all matters brought to its attention, regardless of the source of the complaint. The office keeps the identity of complainants confidential.

The office will not comment on any matter which is under review or investigation. Consequently, an individual making a complaint will not receive periodic information on the status of his or her complaint. However, the complainant will receive notice of any public resolution of a case.

This office welcomes individuals with information concerning violations of the campaign finance law to call or write OCPF.

Restrictions on Public Employees

OCPF administers sections 13 through 17 of M.G.L. Chapter 55. These laws on public employees' political finance activity were designed to:

- Protect public employees from being coerced into providing political contributions or services as a condition of their employment.

- Separate governmental activity from political campaign activity.

- Protect individuals doing business with the state from being coerced into providing political contributions or services.

No state, county, city or town employee, other than an elected official, may directly or indirectly solicit or receive any contribution or anything of value for ANY political purpose whatsoever.

If a person is both a public employee and an elected official, the prohibitions against soliciting or receiving political contributions would still apply to him or her.

Soliciting or receiving campaign contributions by anyone in a building occupied for any state, county or municipal purpose is prohibited.

No person in the public service or in private employment may be compelled to make a political contribution or to render any political service.

No public official or employee may be prejudiced in his or her employment for failure to make a political contribution, or be rewarded for making a political contribution.

A political committee may not solicit or receive a contribution on behalf of a candidate who is a state, county or municipal employee, if the contributor has an interest in any particular matter in which the

state, county or municipal employee participates or which is the subject of his official responsibility.

No public resource may be expended or utilized in order to promote or oppose the nomination or election of any candidate to public office or to promote or oppose any ballot question placed before the voters. Examples of public resources include: paid staff time of public employees; office equipment; vehicles; buildings; supplies, etc.

In some cases, agency policy or the conflict-of-interest law, M.G.L. Chapter 268A, establishes stricter standards for public employee participation in political activities. Public employees should consult the State Ethics Commission as well as their supervisor/agency head.

Frequently Asked Questions

Q1: May a candidate be the treasurer of his/her own political committee?

A1: No.

Q2: May the treasurer and chairman of the committee be the same person?

A2: Yes, unless that person is a public employee. A public employee may not be a treasurer of any political committee. For practical purposes, a public employee would also encounter difficulties serving as the chairman of a political committee. If you are a public employee contemplating serving as a committee chairman, contact OCPF.

Q3: May a business make a contribution to a candidate?

A3: Business and professional corporations MAY NOT make contributions to candidates or their political committees. However, an individual may use his or her non-incorporated business to make a contribution to the campaign fund of a candidate. In such cases, the

contribution from a non-incorporated business, including a partnership, should be reported as coming from the individual owner or partner who is D/B/A (doing business as) the non-incorporated business.

Q4: What number should I give the bank for the committee tax identification number?

A4: The I.R.S. regulates U.S. revenue laws. Candidates and political committees should consult the I.R.S. for information on these laws and how to obtain an I.R.S. tax identification number at (617) 536-1040. In addition, they should contact the Massachusetts Department of Revenue at (617) 727-4545 for information on any state tax requirements which may be applicable. An individual's Social Security number should not be used for a tax identification number.

Q5: How much may I contribute to my own campaign?

A5: While individual contributions, including contributions from spouses and other family members, are limited to $500 in a calendar year ($200 for registered lobbyists), a candidate may contribute without limit from his/her personal funds to his/her own campaign. However, you may not loan your committee more than $50,000 per election if you are a candidate for state Senator or $30,000 per election if you are a candidate for state Representative. And, if you make a loan to your committee, it must be reported not only as a contribution on Schedule A, but also as a liability on Schedule D.

Q6: What is the date my campaign finance reports are due, and how do I figure out the beginning and ending dates of the reporting period?

A6: The reporting period is the period for which the candidate and his/her committee, if any, must report all campaign finance activity. This includes all activity from the day following the date of the last report filed through 10 days before the due date.

For example: If the primary election is scheduled for Tuesday, September 17, the pre-primary report is due to OCPF on or before

Monday, September 9 (eight days before the primary election). This report covers the period from the day following the ending date of the last report filed through 10 days before its due date.

Therefore, if the candidate and/or committee filed a previous report in January, complete through December 31, the pre-primary reporting period will begin on January 1 and end 10 days before the report is due, i.e. August 31. For first-time filers, the beginning date of this initial report is the day following the date of the last election held for the office the candidate is seeking. The ending date is the same as described above, that is 10 days before the due date.

Q7: I would like to change some information on the previously filed Form CPF 101 (Statement of Organization of a Candidate Committee). How would I go about doing so?

A7: Any changes to the originally-filed Form CPF 101 must be filed within 10 days of the actual change. For most changes, a letter of amendment clearly stating the change from the previously-filed Form CPF 101 may be filed with OCPF. The only exception to this is in the case of a change of treasurer, for which the candidate and the new treasurer must file Form CPF T 101 (Change of Treasurer) with OCPF. No monies may be raised or spent by the committee until the new treasurer is qualified for the office.

Q8: I am thinking of running for a local office in my community. Can I keep the same committee I had for my campaign for the General Court?

A8: Yes. In fact, since the law allows a candidate to have only one political committee organized on his or her behalf, a candidate for a municipal office who currently has a political committee organized with OCPF would have to transfer the existing political committee to the municipal election official. The organization of a second political committee for the candidate would be a violation of state law. Please contact OCPF for more information on transferring an existing political committee from this office to your municipality.

Q9: I am an appointed public employee. May I ask a friend or relative to purchase a ticket to a fundraiser for a candidate?

A9: No. Section 13 prohibits this activity at any time.

Q10: I am an appointed public employee. May I run for office?

A10: Yes. While M.G.L. Chapter 55 does not prevent a public employee from running for public office, it does prohibit fundraising by a public employee for any candidate. If you run for office, you must organize a political committee and have that committee handle all fundraising activity. You should also check with your agency, the State Ethics Commission and/or your city or town for further guidance or restrictions.

Q11: May a committee use a public building as an address to send a contribution to a candidate's political committee?

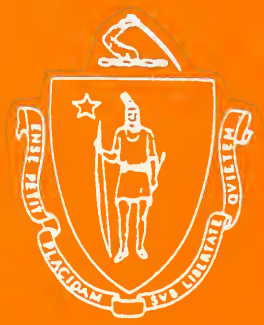
A11: No. Such action is prohibited by Section 14.

Q12: I am an appointed public employee as well as a candidate for the General Court. May I use the printing machine in the office I work in to prepare a flyer or letter about my candidacy?

A12: No. The campaign finance law prohibits any person from using a public resource such as office space or equipment for political purposes. The law also prohibits an appointed public employee from engaging in campaign activities while being paid by his or her public agency during work hours.

Q13: I am a candidate for the state legislature. May I serve as the treasurer of a PAC or of another candidate's committee?

A13:. A candidate or elected official on the state, county or municipal level is prohibited by law from serving as the principal officer of, or organizing, financing, maintaining or controlling a PAC. Candidates and elected officials may, however, serve as officers of people's committees and other candidate committees.



The Commonwealth of Massachusetts
Office of Campaign & Political Finance
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-8352
(800) 462-OCPF

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